

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JUAN MATIAS TORRES,
Petitioner,
V.
RALPH M. DIAZ, Warden
Respondent.

Case No. 12-cv-06224-YGR (PR)

ORDER DENYING PETITIONER'S REQUESTS FOR A CERTIFICATE OF APPEALABILITY AND FOR A STAY IN PROCEEDINGS

This is a habeas case under 28 U.S.C. § 2254 filed *pro se* by a state prisoner. Petitioner has filed an amended petition raising the same three claims from his original petition as well as six additional new claims. Dkt. 59. The Court granted Respondent’s motion to dismiss the six new claims (claims 6-9) as untimely under the one-year statute of limitations established by the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”). Dkt. 74. The Court noted that it would resolve remaining timely claims (claims 1-3) in a separate written Order. *Id.* at 16.

Petitioner has filed a notice of appeal and a request for a certificate of appealability (“COA”) “on all the new claims in the amended petition.” Dkts. 75, 76. He also requests a stay in proceedings pending the Court’s ruling on his motion for a COA. Dkt. 80.

Petitioner’s motion for a COA is DENIED as premature. Dkt. 76. A COA is granted or denied only when the Court issues a final order disposing of a petition for writ of habeas corpus and enters judgment. *See* 28 U.S.C. § 2253(c)(1). Because the three remaining claims in Petitioner’s amended petition are pending, his request for a COA is premature. The Court will issue or decline to issue a COA when it resolves claims 1-3. Furthermore, because the Court has ruled on the pending motion for a COA, no stay is warranted. Therefore, Petitioner’s request for a stay is DENIED. Dkt. 80. The Clerk of the Court shall terminate Docket nos. 76 and 80.

IT IS SO ORDERED.

Dated: July 11, 2017

Yvonne Gonzalez Rogers
YVONNE GONZALEZ ROGERS
United States District Judge